

High time for popular constitutionalism!

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We have long praised the liberal values on which modern constitutionalism is built and there to enforce: inviolable and equal human dignity, human rights protection, democracy and the rule of law. These are all the cornerstone values of modern constitutionalism deeply imbued with liberal political ethos in whose absence they either cannot exist or acquire a completely different, perhaps even adverse meaning.

Not long ago the advent of illiberal democracy has been announced. It has been mocked, downplayed, but also seriously critically engaged with, including by the authors of this blog. However, since the idea has come from marginal countries in the European East, from Hungary, Poland, but also Slovenia and the likes, it has not been really perceived as an objective threat to the Western constitutional order.

The election of Donald Trump, not for who he is, but what he has been standing for, must change this. The members of the academic elite have for far too long disregarded what has been going on in the *ventre* of the Western societies. The majority in our societies seems to be increasingly disconnected with the liberal values that especially the legal academia, but also the ruling political class – at least on a declaratory level – have taken for granted and for irreversible in theory and practice.

We have been all wrong about it. Since there can be no such thing as democracy and rule of law properly so-called in the absence of the underlying liberal ethos, it is high time that all those in favor of constitutionalism turn back to the people. There can be no modern constitutionalism, guaranteeing the liberal values of the rule of law and democracy *lato sensu*, if these values lose ground among the people. But the trend is clear: those who have taken the people and their concerns (at least declaratorily) seriously for a plethora of sound and ill, but mainly illiberal purposes, are winning the game. This trend needs to be stopped, before it is too late. What the legal academia can and must do is to bring the people back in. It is, indeed, high time for popular constitutionalism.

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